

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1520-AIR-E **TCEQ ID:** RN100210129 **CASE NO.:** 34651
RESPONDENT NAME: Gulf Chemical & Metallurgical Corporation

Page 1 of 3

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Gulf Chemical and Metallurgical Freeport, 302 Midway Road, Freeport, Brazoria County</p> <p>TYPE OF OPERATION: Secondary nonferrous metals smelting and refining plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There are two additional pending enforcement actions regarding this facility location, Docket Nos. 2006-0734-AIR-E, and 2007-1631-IHW-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Raj Vadlamudi, Environmental, Health and Safety Manager, Gulf Chemical & Metallurgical Corporation, 302 Midway Road, Freeport, Texas 77542 Mr. Zenon R. Llanos, Vice President of Research, Gulf Chemical & Metallurgical Corporation, 302 Midway Road, Freeport, Texas 77542 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 10, 2007</p> <p>Date of NOV/NOE Relating to this Case: September 11, 2007 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>AIR</p> <p>1) Failed to comply with the allowable emission limit of 0.32 pounds per hour ("lbs/hr") for volatile organic compounds ("VOCs"). Specifically, during the stack testing on February 22-23, 2007, VOC emissions from the Electric Arc Furnace Scrubber Stack emission point number ("EPN") 009 were 1.079 lbs/hr [30 TEX. ADMIN. CODE §116.115(c), NSR Permit No. 19793 Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to comply with the allowable emission limit of 0.51 lbs/hr for particulate matter ("PM"). Specifically, during the stack testing on February 21, 2007, PM emissions from the Electric Arc Furnace East Scrubber Stack (EPN 012) were 0.92 lbs/hr [30 TEX. ADMIN. CODE §116.615(2), Standard Permit No. 36867, General Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failed to comply with the allowable emission limit of 0.51 lbs/hr for PM. Specifically, during the stack testing on February 21, 2007, PM emissions from the Electric Arc Furnace West Scrubber Stack (EPN 013) were 1.38 lbs/hr [30 TEX. ADMIN. CODE §116.615(2), Standard Permit No. 36867, General Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$31,050</p> <p>Total Deferred: \$6,210 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$12,420</p> <p>Total Paid to General Revenue: \$12,420</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, begin complying with the allowable emission limits of NSR Permit No. 19793 and Standard Permit No. 36867;</p> <p>b. Within 30 days after the effective date of this Agreed Order, determine the removal efficiency of the Electric Arc Furnace East and West Scrubber Stacks by utilizing the operational data to calculate input to the scrubber; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.</p>

<p>4) Failed to demonstrate removal efficiency of the Electric Arc Furnace East Scrubber Stack (EPN 012) [30 TEX. ADMIN. CODE §116.615(6), Standard Permit No. 36867, General Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>5) Failed to demonstrate removal efficiency of the Electric Arc Furnace West Scrubber Stack (EPN 013) [30 TEX. ADMIN. CODE §116.615(6), Standard Permit No. 36867, General Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): BL0029V

Attachment A
Docket Number: 2007-1520-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Gulf Chemical & Metallurgical Corporation
Payable Penalty Amount:	Twenty-Four Thousand Eight Hundred Forty Dollars (\$24,840)
SEP Amount:	Twelve Thousand Four Hundred Twenty Dollars (\$12,420)
Type of SEP:	Pre-approved
Third-Party Recipient:	Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP:	Brazoria County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Brazoria County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality***. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ

DATES

Assigned

17-Sep-2007

PCW

21-Sep-2007

Screening

18-Sep-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Gulf Chemical & Metallurgical Corporation

Reg. Ent. Ref. No. RN100210129

Facility/Site Region 12-Houston

Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 34651

Docket No. 2007-1520-AIR-E

Media Program(s) Air

Multi-Media

No. of Violations 2

Order Type 1660

Enf. Coordinator Jorge Ibarra, P.E.

EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$22,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

38% Enhancement

Subtotals 2, 3, & 7

\$8,550

Notes

The Respondent was issued two NOVs with the same/similar type of violations, four NOVs without the same/similar type of violations, and self reported ten months of effluent violations.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV

NOV to EDRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6

\$0

Total EB Amounts \$302

Approx. Cost of Compliance \$5,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$31,050

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$31,050

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$31,050

DEFERRAL

20%

Reduction

Adjustment

-\$6,210

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$24,840

Screening Date 18-Sep-2007

Docket No. 2007-1520-AIR-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 34651

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100210129

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	14	28%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 38%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent was issued two NOVs with the same/similar type of violations, four NOVs without the same/similar type of violations, and self reported ten months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 38%

Screening Date 18-Sep-2007		Docket No. 2007-1520-AIR-E		PCW	
Respondent Gulf Chemical & Metallurgical Corporation				<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34651				<i>PCW Revision September 19, 2007</i>	
Reg. Ent. Reference No. RN100210129					
Media [Statute] Air					
Enf. Coordinator Jorge Ibarra, P.E.					
Violation Number		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>			
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px;">30 Tex. Admin. Code §116.115(c), Permit No. 19793 Special Condition No. 1, and Tex. Health & Safety Code § 382.085(b)</div>			
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to comply with the allowable emission limit of 0.32 pounds per hour ("lbs/hr") for volatile organic compounds ("VOCs"). Specifically, during the stack testing on February 22-23, 2007, VOC emissions from the Electric Arc Furnace Scrubber Stack emission point number ("EPN") 009 were 1.079 lbs/hr.</div>			
Base Penalty					<div style="border: 1px solid black; width: 100px; text-align: right;">\$10,000</div>
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	x	
	Potential	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	Percent <div style="border: 1px solid black; width: 100px; text-align: right;">25%</div>
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	Percent <div style="border: 1px solid black; width: 100px; text-align: right;">0%</div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>				
Adjustment					<div style="border: 1px solid black; width: 100px; text-align: right;">\$7,500</div>
					<div style="border: 1px solid black; width: 100px; text-align: right;">\$2,500</div>
Violation Events					
Number of Violation Events		<div style="border: 1px solid black; width: 100px; text-align: center;">3</div>	<div style="border: 1px solid black; width: 100px; text-align: center;">208</div> Number of violation days		
<i>mark only one with an x</i>	daily	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>			
	monthly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>			
	quarterly	x			
	semiannual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>			
	annual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>			
	single event	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>			
Violation Base Penalty					<div style="border: 1px solid black; width: 100px; text-align: right;">\$7,500</div>
<div style="border: 1px solid black; padding: 5px; text-align: center;">Three quarterly events are recommended from February 22, 2007 (date first tested out of compliance) to screening date of September 18, 2007.</div>					
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<div style="border: 1px solid black; width: 100px; text-align: right;">\$149</div>	Violation Final Penalty Total		<div style="border: 1px solid black; width: 100px; text-align: right;">\$10,350</div>
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; width: 100px; text-align: right;">\$10,350</div>

Economic Benefit Worksheet

Respondent Gulf Chemical & Metallurgical Corporation
Case ID No. 34651
Reg. Ent. Reference No. RN100210129
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$2,500	22-Feb-2007	1-May-2008	1.2	\$149	n/a	\$149
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct stack testing and demonstrate compliance with the allowable emission limits of Permit No. 19793. Date Required is the date stack testing was conducted, Final Date is the projected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$149

Screening Date 18-Sep-2007**Docket No.** 2007-1520-AIR-E**PCW****Respondent** Gulf Chemical & Metallurgical Corporation

Policy Revision 2 (September 2002)

Case ID No. 34651

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100210129**Media [Statute]** Air**Enf. Coordinator** Jorge Ibarra, P.E.**Violation Number** 2**Rule Cite(s)** 30 Tex. Admin. Code §116.615(2) and (6), Standard Permit No. 36867, General Conditions, and Tex. Health & Safety Code § 382.085(b)**Violation Description**

Failed to comply with the allowable emission limit of 0.51 lbs/hr for particulate matter ("PM") and failed to demonstrate that the removal efficiency of the Electric Arc Furnace East and West Scrubber Stacks are equivalent or exceed the removal efficiency of the Feed Pad Baghouse. Specifically, during the stack testing on February 21, 2007, PM emissions from the Electric Arc Furnace East and West Scrubber Stacks EPNs 012 and 013 were 0.92 lbs/hr and 1.38 lbs/hr, respectively and no operational data was utilized to calculate input to the scrubber, therefore no removal efficiency could be calculated.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%**Matrix Notes**

Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events**Number of Violation Events** 6209 **Number of violation days**

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$15,000

Six quarterly events are recommended (three quarters for each EPN) from February 21, 2007 (date first tested out of compliance) to screening date of September 18, 2007.

Economic Benefit (EB) for this violation**Statutory Limit Test****Estimated EB Amount** \$154**Violation Final Penalty Total** \$20,700**This violation Final Assessed Penalty (adjusted for limits)** \$20,700

Economic Benefit Worksheet

Respondent Gulf Chemical & Metallurgical Corporation
Case ID No. 34651
Reg. Ent. Reference No. RN100210129
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$2,500	21-Feb-2007	15-May-2008	1.2	\$154	n/a	\$154
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct stack testing and demonstrate compliance with the allowable emission limits of Standard Permit No. 36867. Date Required is the date stack testing was conducted; Final Date is the projected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$154

Compliance History

Customer/Respondent/Owner-Operator: CN600124598 Gulf Chemical & Metallurgical Corporation Classification: AVERAGE Rating: 1.97

Regulated Entity: RN100210129 GULF CHEMICAL AND METALLURGICAL FREEPORT Classification: AVERAGE Site Rating: 0.93

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	BL0029V
AIR OPERATING PERMITS	PERMIT	1337
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD074195678
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30952
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50204
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50204
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50204
AIR NEW SOURCE PERMITS	PERMIT	12161
AIR NEW SOURCE PERMITS	PERMIT	12539
AIR NEW SOURCE PERMITS	PERMIT	12540
AIR NEW SOURCE PERMITS	PERMIT	19793
AIR NEW SOURCE PERMITS	PERMIT	25593
AIR NEW SOURCE PERMITS	PERMIT	36867
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0029V
AIR NEW SOURCE PERMITS	PERMIT	9803
AIR NEW SOURCE PERMITS	PERMIT	1157B
AIR NEW SOURCE PERMITS	PERMIT	1157C
AIR NEW SOURCE PERMITS	PERMIT	7723
AIR NEW SOURCE PERMITS	PERMIT	11990
AIR NEW SOURCE PERMITS	PERMIT	12094
AIR NEW SOURCE PERMITS	AFS NUM	4803900032
AIR NEW SOURCE PERMITS	REGISTRATION	73793
AIR NEW SOURCE PERMITS	REGISTRATION	74664
AIR NEW SOURCE PERMITS	REGISTRATION	79434
AIR NEW SOURCE PERMITS	REGISTRATION	80922
WASTEWATER	PERMIT	TPDES0034738
WASTEWATER	PERMIT	WQ0001861000
WASTEWATER	EPA ID	TPDES0034738
WASTEWATER	PERMIT	TX0034738
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	1565
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30952

Location: 302 MIDWAY RD, FREEPORT, TX, 77541 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 18, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 18, 2002 to September 18, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

- Has the site been in existence and/or operation for the full five year compliance period? Yes
- Has there been a (known) change in ownership of the site during the compliance period? No
- If Yes, who is the current owner? N/A
- If Yes, who was/were the prior owner(s)? N/A
- When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	09/18/2002	(180138)
2	10/17/2002	(180141)
3	10/21/2002	(14347)
4	11/20/2002	(180145)
5	12/20/2002	(180149)
6	02/12/2003	(180153)
7	02/21/2003	(180114)
8	03/19/2003	(180117)
9	04/09/2003	(28992)
10	04/15/2003	(31949)
11	04/18/2003	(180122)
12	04/25/2003	(34688)
13	04/30/2003	(33349)
14	05/19/2003	(180126)
15	06/20/2003	(304671)
16	07/18/2003	(304674)
17	08/18/2003	(304676)
18	08/22/2003	(113080)
19	09/12/2003	(304678)
20	10/21/2003	(304680)
21	11/20/2003	(304681)
22	12/22/2003	(304682)
23	01/23/2004	(304683)
24	02/06/2004	(259548)
25	02/13/2004	(304664)
26	04/23/2004	(304667)
27	05/06/2004	(265363)
28	05/21/2004	(304669)
29	06/25/2004	(304666)
30	06/25/2004	(355846)
31	07/19/2004	(355847)
32	07/23/2004	(304672)
33	08/11/2004	(355848)
34	08/13/2004	(250319)
35	09/07/2004	(355849)
36	10/20/2004	(355850)
37	11/12/2004	(355851)
38	12/20/2004	(383948)
39	01/21/2005	(343250)
40	01/21/2005	(383949)
41	02/09/2005	(383946)
42	03/14/2005	(383947)
43	03/29/2005	(373171)
44	04/20/2005	(580010)
45	05/12/2005	(580013)
46	06/10/2005	(580016)
47	07/24/2005	(580019)
48	08/12/2005	(580022)
49	08/26/2005	(402936)
50	09/22/2005	(580024)
51	10/20/2005	(580026)
52	11/18/2005	(580028)
53	12/19/2005	(580030)
54	01/23/2006	(580032)
55	02/10/2006	(580006)

56	02/23/2006	(381428)
57	03/21/2006	(580008)
58	04/14/2006	(580011)
59	05/09/2006	(457338)
60	05/16/2006	(580014)
61	05/17/2006	(465609)
62	05/18/2006	(451345)
63	05/30/2006	(465204)
64	06/20/2006	(580017)
65	07/24/2006	(580020)
66	08/23/2006	(580023)
67	09/18/2006	(580025)
68	10/23/2006	(580027)
69	11/21/2006	(580029)
70	12/18/2006	(580031)
71	01/10/2007	(532191)
72	01/16/2007	(580033)
73	02/21/2007	(580007)
74	03/19/2007	(580009)
75	04/16/2007	(580012)
76	05/14/2007	(580015)
77	06/26/2007	(580018)
78	07/18/2007	(580021)
79	08/21/2007	(572032)
80	08/31/2007	(567030)
81	09/12/2007	(565966)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	09/30/2002	(180141)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	05/01/2003	(33349)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)			
Rqmt Prov:	PERMIT 1157B			
Description:	Failure to maintain vanadium pentoxide emissions below permit allowable.			
Date	06/30/2004	(355847)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2004	(383948)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/21/2005	(343250)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.6(c)[G]			
Description:	Failure to maintain an up-to-date Notice of Registration.			
Self Report?	NO		Classification	Minor
Citation:	40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)			
Rqmt Prov:	PERMIT V.B.1.			
Description:	Failure to store authorized waste in Container Storage Area NOR 012 (Permit Unit 003).			
Date	01/31/2005	(383946)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	07/31/2005	(580022)		

Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2005	(580028)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2005	(580030)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/23/2006	(381428)	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.6(c)[G]		
Description:	Failure to maintain an up-to-date Notice of Registration.		
Self Report?	NO	Classification	Minor
Citation:	40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)		
Rqmt Prov:	PERMIT V.B.1.		
Description:	Failure to store authorized waste in Container Storage Area NOR 012 (Permit Unit 003).		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.5[G]		
Rqmt Prov:	PERMIT II.C.1.h.		
Description:	Failure to deed record the burial of approximately 4 million cubic feet of alumina concentrate in a surface impoundment known as Pond 4 (NOR 004) in		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.9(a)(2)		
Rqmt Prov:	PERMIT II.C.1.h.		
Description:	Failure to report the generation of Process Wastewater and Rinse Water from Cleaning Equipment Used to Handle K171/K172 Wastes on 2003, 2004, and 2005 Annual Waste Summaries.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter R 335.504[G] 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11[G]		
Description:	Failure to make complete hazardous waste determinations for Process Wastewater (0038119H), Rinse Water (0030101H), and the waste stream comprised of broken concrete, gravel, and associated soil generated at the Freeport facility and deposited on the Pond 4 property.		
Date	05/23/2006	(462884)	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.4(1)		
Description:	Failure to prevent the imminent threat of discharge of industrial solid waste from Pond 3 (NOR 003).		
Date	05/30/2006	(465204)	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.6(c)[G]		
Description:	Failure to maintain an up-to-date Notice of Registration.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.5[G]		
Rqmt Prov:	PERMIT II.C.1.h.		
Description:	Failure to deed record the burial of approximately 4 million cubic feet of alumina concentrate in a surface impoundment known as Pond 4 (NOR 004) in		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.9(a)(2)		
Rqmt Prov:	PERMIT II.C.1.h.		
Description:	Failure to report the generation of Process Wastewater and Rinse Water from Cleaning Equipment Used to Handle K171/K172 Wastes on 2003, 2004, and		

2005 Annual Waste Summaries.

Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter R 335.504[G] 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11[G]		
Description:	Failure to make complete hazardous waste determinations for Process Wastewater (0038119H), Rinse Water (0030101H), and the waste stream comprised of broken concrete, gravel, and associated soil generated at the Freeport facility and deposited on the Pond 4 property.		
Self Report?	NO	Classification	Moderate
Citation:	2C TWC Chapter 20, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.4(1)		
Description:	Failure to prevent a release of contaminants to groundwater from Pond 4 impoundment NOR 004).		
Date	08/31/2006	(580025)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2006	(580031)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2007	(580009)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/21/2007	(572032)	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP FOP O-01377 SC 8 PA NSR 1157C SC 5		
Description:	Failed to maintain the pH of scrubber 35-01 (EPN 007) below 8.0 as required by NSR Permit 1157C (FOP O-01337; NSR 1157C).		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP FOP O-01337 SC 8 PA NSR 19793 SC 6		
Description:	Failed to maintain pH on scrubber 68-03 above 8.0 as required by NSR 19793 (FOP O-01337; NSR 19793).		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.165(a)(7) 5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failed to certify deviation report with Form OP-CRO1 (FOP O-01337).		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GULF CHEMICAL &
METALLURGICAL CORPORATION
RN100210129**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1520-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Gulf Chemical & Metallurgical Corporation ("Gulf Chemical") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Gulf Chemical appear before the Commission and together stipulate that:

1. Gulf Chemical owns and operates a secondary nonferrous metals smelting and refining plant at 302 Midway Road in Freeport, Brazoria County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Gulf Chemical agree that the Commission has jurisdiction to enter this Agreed Order, and that Gulf Chemical is subject to the Commission's jurisdiction.
4. Gulf Chemical received notice of the violations alleged in Section II ("Allegations") on or about September 16, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Gulf Chemical of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirty-One Thousand Fifty Dollars (\$31,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Gulf Chemical has paid Twelve Thousand Four Hundred Twenty Dollars (\$12,420) of the

administrative penalty and Six Thousand Two Hundred Ten Dollars (\$6,210) is deferred contingent upon Gulf Chemical's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Gulf Chemical fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Gulf Chemical to pay all or part of the deferred penalty. Twelve Thousand Four Hundred Twenty Dollars (\$12,420) shall be conditionally offset by Gulf Chemical's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Gulf Chemical have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Gulf Chemical has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Gulf Chemical is alleged to have:

1. Failed to comply with the allowable emission limit of 0.32 pounds per hour ("lbs/hr") for volatile organic compounds ("VOCs"), in violation of 30 TEX. ADMIN. CODE §116.115(c), NSR Permit No. 19793 Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 10, 2007. Specifically, during the stack testing on February 22-23, 2007 VOC emissions from the Electric Arc Furnace Scrubber Stack emission point number ("EPN") 009 were 1.079 lbs/hr.
2. Failed to comply with the allowable emission limit of 0.51 lbs/hr for particulate matter ("PM"), in violation of 30 TEX. ADMIN. CODE §116.615(2), Standard Permit No. 36867, General Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 10, 2007. Specifically, during the stack testing on February 21, 2007, PM emissions from the Electric Arc Furnace East Scrubber Stack (EPN 012) were 0.92 lbs/hr.
3. Failed to comply with the allowable emission limit of 0.51 lbs/hr for PM, in violation of 30 TEX. ADMIN. CODE §116.615(2), Standard Permit No. 36867, General Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 10,

2007. Specifically, during the stack testing on February 21, 2007, PM emissions from the Electric Arc Furnace West Scrubber Stack (EPN 013) were 1.38 lbs/hr.

4. Failed to demonstrate removal efficiency of the Electric Arc Furnace East Scrubber Stack (EPN 012), in violation of 30 TEX. ADMIN. CODE §116.615(6), Standard Permit No. 36867, General Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 10, 2007.
5. Failed to demonstrate removal efficiency of the Electric Arc Furnace West Scrubber Stack (EPN 013), in violation of 30 TEX. ADMIN. CODE §116.615(6), Standard Permit No. 36867, General Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 10, 2007.

III. DENIALS

Gulf Chemical generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Gulf Chemical pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Gulf Chemical's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Gulf Chemical & Metallurgical Corporation, Docket No. 2007-1520-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Gulf Chemical shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twelve Thousand Four Hundred Twenty Dollars (\$12,420) of the assessed administrative penalty shall be offset with the condition that Gulf Chemical implement the SEP defined in Attachment A, incorporated herein by reference. Gulf Chemical's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that Gulf Chemical shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, begin complying with the allowable emission limits of NSR Permit No. 19793 and Standard Permit No. 36867;

- b. Within 30 days after the effective date of this Agreed Order, determine the removal efficiency of the Electric Arc Furnace East and West Scrubber Stacks by utilizing the operational data to calculate input to the scrubber; and
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below and include detailed supporting documentation to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

- 4. The provisions of this Agreed Order shall apply to and be binding upon Gulf Chemical. Gulf Chemical is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
- 5. If Gulf Chemical fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Gulf Chemical's failure to comply is not a violation of this Agreed Order. Gulf Chemical shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Gulf Chemical shall notify the Executive Director within seven days after Gulf Chemical becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and

substantiated showing of good cause. All requests for extensions by Gulf Chemical shall be made in writing to the Executive Director. Extensions are not effective until Gulf Chemical receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Gulf Chemical in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Gulf Chemical, or three days after the date on which the Commission mails notice of the Order to Gulf Chemical, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sreen
For the Executive Director

3/21/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Zenon R. Llanos
Signature

12-26-07
Date

ZENON R. LLANOS
Name (Printed or typed)
Authorized Representative of
Gulf Chemical & Metallurgical Corporation

V.P. RESEARCH
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1520-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Gulf Chemical & Metallurgical Corporation
Payable Penalty Amount:	Twenty-Four Thousand Eight Hundred Forty Dollars (\$24,840)
SEP Amount:	Twelve Thousand Four Hundred Twenty Dollars (\$12,420)
Type of SEP:	Pre-approved
Third-Party Recipient:	Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP:	Brazoria County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Brazoria County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality***. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

